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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,033	01/24/2004	Jimmy Flores	RINO001	7932

36297 7590 12/17/2004

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EXAMINER
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ELDRED, JOHN W

ART UNIT	PAPER NUMBER
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3644

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/764,033

Applicant(s)

FLORES, JIMMY

Examiner

J. Woodrow Eldred

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 9-13 is/are rejected.
- 7) ☒ Claim(s) 2-8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

### DETAILED ACTION

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 10, 12, and 13 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Stocking (3,064,294).

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stocking (3,064,294) in view of Schneider (4,698,932).

Stocking discloses a gun cleaning device and method comprising all claimed elements including inner and outer tubes, a compressible cleaning tip, and a cleaning tip compression member, where the cleaning tip has a greater diameter when compressed. See especially Figures 1 and 2, and column 2, line 42-column 3, line 56. Stocking fails to disclose that the gun can be a paintball gun. Schneider teaches that it is known to use an expanding cleaning tip to clean a paintball gun. See column 2, lines 41-42. Motivation to combine is the mere employment of the device on a specific type of gun which also needs to be cleaned. To employ the teaching of Schneider on the device of Stocking and use it as a paintball gun cleaner is considered to have been obvious to one having ordinary skill in the art.

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5. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stocking in view of Schneider as applied to claims 1, 10, 12, and 13 above, and further in view of Dedeaux et al (5,987,799).

Stocking fails to show the tube as made out of plastic or to show the cleaning tip as a spherical rubber ball. Dedeaux et al teach that it is well known to use plastic as the material to form the tubes of a device for insertion into gun barrels. See column 2, lines 39-40. Motivation to combine is the teaching of Dedeaux et al that alternative materials can be used to produce the same structure for gun barrel devices. To employ the teaching of Dedeaux et al on the device of Stocking and have plastic tubes is considered to have been obvious to one having ordinary skill in the art. Also, there is only a slight difference in shape between the cylindrical rubber cleaning tip of Stocking and a ball shape as claimed. The tip of Stocking performs the same function in the same way as the claimed spherical shape. It is considered to have been obvious to one having ordinary skill in the art to modify the tip to have a spherical shape for a variety of reasons, including ease of production, a better fit to a particular size gun, or just greater availability of a spherical shape. In any case, lacking any unexpected results, to have a spherical shape does not appear to provide a patentable distinction.

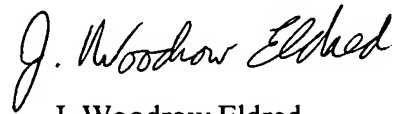
6. Claims 2-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Woodrow Eldred whose telephone number is 703-306-4151. The examiner can normally be reached on Monday to Thursday, from 8:00 a.m. to 5:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 703-305-7421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, reading "J. Woodrow Eldred". The signature is written in a cursive style with a large, stylized "J" and "E".

J. Woodrow Eldred  
Primary Examiner  
Art Unit 3644

JWE